

ORIGINAL



0000100085

BEFORE THE ARIZONA CORPORATION COMMISSION
RECEIVED

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

Arizona Corporation Commission

DOCKETED

SEP 05 2001

2001 SEP -5 P 4:18

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING THE
ARIZONA INDEPENDENT SCHEDULING
ADMINISTRATOR

Docket No. E-00000A-01-0630

**COMMENTS OF TUCSON ELECTRIC
POWER COMPANY**

Tucson Electric Power Company ("TEP"), hereby submits its comments in response to the issues raised by the Commission in its Procedural Order dated August 6, 2001 as follows:

I. INTRODUCTION.

TEP has been an active participant in, and supporter of, the development of the Arizona Independent Scheduling Administrator ("AISA"). The notion of the AISA was conceived during a period of great anticipation regarding retail electric competition in the State. Many interested parties had provided projections of the benefits of retail competition that caused a wave of optimism in the industry. However, in reality, retail electric competition has not materialized in Arizona the way that TEP and others had been lead to believe that it would.

The status of electric competition in Arizona and in neighboring California certainly justifies the Commission's request that interested parties join with it in evaluating the activity undertaken by, and the continued need for, the AISA. TEP believes that it is prudent and in the best public interest for it to respond to the Commission's invitation by

providing an objective assessment of the AISA so that the Commission can make an informed determination of the ongoing need for, and viability of, the AISA.¹

II. TEP'S RESPONSE TO ISSUES RAISED BY THE COMMISSION.

1. State and discuss the purpose of the AISA.

The purpose of the AISA, as indicated in A.A.C. R14-2-1609, is to promote the provision of nondiscriminatory open access to transmission and distribution facilities to serve all electric customers. In furtherance thereof, the AISA was directed to perform the following functions:

- Calculate Available Transmission Capacity ("ATC");
- Implement and oversee nondiscriminatory application of operating protocols;
- Provide a dispute resolution process for market participants;
- Process all reservation and scheduling for use of Arizona transmission facilities; and
- Implement a transmission planning process.

As is evident from the functions listed above, the AISA's role is contingent upon a real and vibrant retail electric competitive market.

2. State and discuss the necessity of the AISA and whether it contributes (or not) to the development of retail competition.

The AISA has served as a vehicle for the implementation of a set of operating protocols that are conducive to the development of retail electric competition. These protocols provide guidance regarding operating issues associated with direct access to the transmission systems of the Arizona Affected Utilities. Protocols were adopted by the Affected Utilities and have been incorporated into their respective FERC Open Access Tariffs ("OATTs"). By causing the

¹ Nothing in these Comments should be construed to be contrary to TEP's support of the development of the AISA or its implementation of operating protocols as incorporated into TEP's FERC Open Access Tariffs.

1 protocols to become a part of their OATTs, the Affected Utilities have assured that the protocols
2 will be followed and enforced in the future and independent of the AISA. TEP believes that the
3 Commission's determination of the need for the AISA will be greatly influenced by the
4 Commission's evaluation of the viability of retail competition in Arizona.

5 **3. State and discuss the functions of the AISA.**

6 Although the AISA is charged with the duties and responsibilities set forth in A.A.C. R14-
7 2-1609, at the present time the AISA's functions are limited primarily to sending out invoices,
8 receiving payments and repaying loans to the Affected Utilities. To TEP's knowledge, the AISA
9 is not currently calculating ATC for any Affected Utilities, providing dispute resolution services
10 or receiving any requests for scheduling and use of transmission facilities. Furthermore, the
11 implementation of a transmission planning process is being undertaken by Affected Utilities and
12 others through a joint planning process. The Affected Utilities and other interested parties,
13 including the Commission Staff, have participated in some or all of the various transmission
14 related studies underway such as the "Southeast Arizona Study", "Central Arizona Study" and
"Biennial Transmission Assessment for Arizona."

15 **4. State and discuss the costs of the AISA. (how many employees,
16 what they do on a daily basis, etc.)**

17 As of September 2001, the AISA is indebted to Arizona Public Service Company,
18 Arizona Electric Power Cooperative, Citizens Utilities, Salt River Project, and TEP
19 (collectively the "funding utilities") in the amount of \$1.7 million for organizational and
20 operating costs. These costs include establishing the AISA, hiring its staff, hiring its
21 attorneys and accountants, and purchasing office equipment. Also, office space for the
22 AISA was initially leased from The Grand Canyon Electric Cooperative and presently is
23 being leased from the Western Area Power Administration. Additional funding for
24 continuing operations was provided by APS and TEP but was not part of a loan
arrangement and is not included in the \$1.7 million.

1 The original funding for the AISA was provided in the form of loans from the
2 funding utilities to be paid back after the AISA began to receive revenue from AISA
3 customers.

4 The AISA, in its June 2001 balance sheet reflects approximately \$174,000 in assets
5 and \$1,353,000 in liabilities. The AISA's operating expenses are approximately \$42,000
6 per month excluding re-payment of its debt to the funding utilities. It is estimated that
7 during calendar year 2001 the AISA will spend \$647,000 and generate income of \$571,000
8 (excluding Miscellaneous Income). The AISA's average cost per MWh in July 2001 was
1.1 cents.

9 The AISA staff consists of the acting Executive Director, Pat Sanderson, and office
10 manager, Peggy Drumm. It appears that the AISA's primary function at this point is to
11 collect data from which to issue invoices to the funding utilities. The AISA staff
12 apparently also prepares minutes of board meetings, agendas for future meetings,
13 scheduling of the meetings and provides support for various filings made at the FERC.

14 **5. State and discuss the need to continue the AISA. (If the AISA is**
15 **terminated, how will independent transmission oversight be**
16 **managed?)**

17 TEP believes that while the AISA has served a useful purpose, absent a more vibrant
18 competitive market the functions of the AISA can and will be accomplished by the Affected
19 Utilities. As previously mentioned, the Affected Utilities have incorporated into their OATTs
20 protocols that provide for nondiscriminatory access to their respective transmission systems. The
21 OATTs have dispute resolution procedures that can be utilized in the event that there are
22 complaints that arise in connection with the operation of the direct access provisions of the
23 OATTs.
24

6. State and discuss the timing and procedures for terminating the AISA. (Discuss the legal ramifications of withdrawing funding)

The AISA was created under the assumption that it would exist for no more than five (5) years. This term was incorporated into the AISA's Articles of Incorporation.² Provisions for "winding-up" the AISA were also included in the "FERC Section 205" filing made by the Affected Utilities who signed the AISA-TP Agreement. Section 14 of the filing addressed:

(i) those provisions necessary to permit the orderly conclusion, or continuation pursuant to another agreement, of transactions entered into prior to the termination of or withdrawal from this Agreement; (ii) those provisions necessary to conduct final billing, collection, and accounting with respect to all matters arising hereunder; and (iii) the indemnification and limitation of liability provisions as applicable to claims arising or accruing prior to the effective date of withdrawal from *or termination of Az ISA operations or dissolution.*" [emphasis added]

TEP believes that the AISA-TP Agreement can provide guidance as to how the AISA could be terminated.

7. State and discuss the AISA relationship to and with Desert Star.

A.A.C. R14-2-1609 indicates that the Commission supports the development of an Independent System Operator (ISO) or absent an Independent System Operator an Arizona Independent Scheduling Administrator (AISA).³ The rules further contemplate that the AISA would be an interim organization whose assets and duties would be transferred to an ISO as the ISO becomes able to carry out those functions.⁴ At this time the only connection between the AISA and DesertSTAR (the RTO proposed to include Arizona) is that some attendees of meetings of the AISA and DesertStar are the same. However, as stated herein, it was contemplated that once DesertSTAR becomes operational, the AISA will wind up its operations

² AISA Articles of Incorporation, Section I.

³ A.A.C. Rule R14-2-1609 C.

⁴ A.A.C. Rule R14-2-1609 F.

8. State and discuss the AISA relationship to and with any regional (multi-state) ISO or RTO that will serve Arizona.

The AISA has no present or prospective relationship with any multi-state RTO/ISO. It appears that the FERC is advocating a single RTO for the Western Interconnection. Any RTO/ISO will have to alleviate "seams" issues both within its own boundaries and between itself and adjacent entities.

9. Address the legal ramifications of the APS and TEP settlement agreements if those utilities are no longer required to support the AISA.

Section 9 of the TEP Settlement Agreement addresses TEP's support of the development of the AISA as follows:

TEP shall fully support the development of the Arizona Independent Scheduling Administrator ("AISA") and Desert STAR. TEP shall modify its FERC Open Access Transmission Tariff ("OATT") to be fully compatible with the AISA/ISO Bylaws and Protocols Manual. The Parties reserve their rights with respect to any AISA protocols, including the right to challenge or seek modifications to, or waivers from, such protocols. TEP shall file changes to its existing OATT consistent with this Section within ten (10) days of Commission approval of this Settlement Agreement pursuant to Section 13.3.

TEP has complied with the provisions of Section 9, inasmuch as TEP actively supported the concept of the AISA while it was being developed, aided in its formation and is currently providing funding for it. Also, TEP was a leader in incorporating into its OATT all of the required changes resulting from the AISA protocols manual, including the provision for exchanging proportional path rights for rights to the Four Corners trading hub.

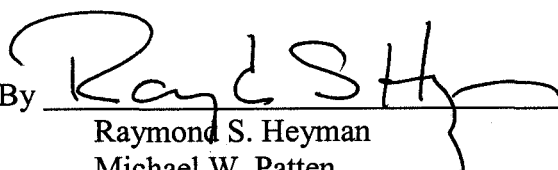
TEP, as one of the largest electric public service corporations in the State, believes that it has a duty to its shareholders and the ratepayers of Arizona to provide an objective and informed assessment of the AISA in response to the Commission's request in this docket. Additionally, in the event that the Commission determines that it is in the public interest to modify or terminate the AISA, TEP will comply with the Commission's orders.

10. State and discuss any other relevant/pertinent information that you believe the Commission should consider regarding the AISA.

Without a significant number of direct access customers in the State, the existence of an organization such as the AISA to facilitate the use of the Affected Utilities' transmission systems does not appear to make economic sense. The function of the AISA can be accomplished through the Commission's orders and rules as well as the provisions of the Affected Utilities' OATTs. Expenditures that would occur in furthering the existence of the AISA could be better spent on efforts to relieve existing transmission constraints and/or study the transmission system to identify likely locations for generation that will mitigate the need for new transmission lines.

Respectfully submitted this 5th day of September, 2001.

ROSHKA HEYMAN & DEWULF, P.L.C.

By 

Raymond S. Heyman
Michael W. Patten
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Attorneys for Tucson Electric Power Company

ORIGINAL + 10 COPIES of the foregoing
filed September 5, 2001, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

1 **COPIES** of the foregoing hand-delivered
September 5, 2001, to:

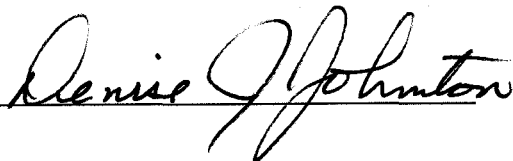
2 Lyn A. Farmer, Esq.
3 Chief Administrative Law Judge
Hearing Division
4 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
5 Phoenix, Arizona 85007

6 Christopher C. Kempley, Esq.
Chief Counsel, Legal Division
7 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
8 Phoenix, Arizona 85007

9 Steve Olea
Acting Director, Utilities Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, Arizona 85007

12 **COPY** of the foregoing mailed
September 5, 2001, to:

13 Pat Sanderson
14 P.O. Box 6277
15 Phoenix, Arizona 85005-6277

16 
17
18
19
20
21
22
23
24

1 **COPIES** of the foregoing hand-delivered
September 5, 2001, to:

2 Lyn A. Farmer, Esq.
3 Chief Administrative Law Judge
Hearing Division
4 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
5 Phoenix, Arizona 85007

6 Christopher C. Kempley, Esq.
Chief Counsel, Legal Division
7 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
8 Phoenix, Arizona 85007

9 Steve Olea
Acting Director, Utilities Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, Arizona 85007

12 **COPY** of the foregoing mailed
September 5, 2001, to:

13 Pat Sanderson
14 P.O. Box 6277
15 Phoenix, Arizona 85005-6277
